

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
3

4 TRANSPERFECT GLOBAL, INC.,  
5 TRANSPERFECT TRANSLATIONS INT'L,  
6 INC., and TRANSLATIONS.COM, INC.,

No. C 10-2590 CW

7 Plaintiffs,  
8 v.  
9 MOTIONPOINT CORP.,  
10 Defendant.

11 ORDER GRANTING IN  
12 PART  
13 TRANSPERFECT'S  
14 MOTION TO SEAL;  
15 DENYING  
16 MOTIONPOINT'S  
17 MOTION TO SEAL  
18 (Docket Nos. 288 &  
19 296)

---

---

20 Plaintiffs Transperfect Global, Inc., Transperfect  
21 Translations International, Inc., and Translations.com, Inc.  
22 (collectively, Transperfect) move to seal portions of their  
23 motions in limine and several exhibits in support thereof. In  
24 addition, Defendant MotionPoint Corporation moves to seal portions  
25 of several exhibits in support of its motions in limine as well as  
several exhibits in support of its trial brief. After reviewing  
the parties' submissions, the Court grants Transperfect's motion  
to seal in part and denies it in part and denies MotionPoint's  
motion to seal.

26 I. Transperfect's Motion to Seal

27 A. Excerpts of Motions in Limine

28 The public interest favors filing all court documents in the  
public record. Thus, any party seeking to file a document under  
seal must demonstrate good cause to do so. Pintos v. Pac.  
Creditors Ass'n, 605 F.3d 665, 678 (9th Cir. 2010). This cannot  
be established simply by showing that the document is subject to a  
protective order or by stating in general terms that the material

1 is considered to be confidential, but rather must be supported by  
2 a sworn declaration demonstrating with particularity the need to  
3 file each document under seal. See Civil Local Rule 79-5(a).

4 Here, Transperfect has not provided good cause for redacting  
5 the excerpts on page 20 of its motions in limine. Specifically,  
6 it has failed to explain why its alleged efforts to acquire  
7 MotionPoint more than five years ago should be shielded from  
8 public view today.

9 Transperfect has also failed to justify redacting the excerpt  
10 on page 12 of its motions in limine. Its supporting declaration  
11 states that this excerpt "describes confidential aspects of  
12 MotionPoint's technologies which MotionPoint has requested be kept  
13 confidential so as not to harm its competitive interests."  
14 Declaration of L. Okey Onyejekwe ¶ 3.<sup>1</sup> In fact, the excerpt does  
15 not describe any aspect of MotionPoint's technology, confidential  
16 or otherwise; rather, it summarizes one expert's view of the  
17 relationship between MotionPoint's patents and prior art. This  
18 information is not sealable.

19 Transperfect's request to seal the excerpts on page 10 of its  
20 motions in limine is granted because it has provided good cause  
21 for sealing this content.

22       B. Gabriel Gross's Declaration

23 Transperfect has not provided good cause for sealing Exhibits  
24 B, C, D, J, and Q to Gabriel Gross's declaration in support of  
25 Transperfect's motions in limine. Exhibits B, C, and J describe  
26

---

27       <sup>1</sup> Although Civil Local Rule 79-5(d) permitted MotionPoint seven  
28 days to file a declaration supporting its designation of this material  
as sealable, MotionPoint did not file any such declaration.

1 the opinions of one expert, Ned Barnes, regarding MotionPoint's  
2 alleged economic damages. Although Transperfect asserts that  
3 these exhibits include "sensitive information relating to  
4 TransPerfect's finances," id. ¶ 2, a close reading of the exhibits  
5 reveals that they do not. Likewise, Exhibits D and Q -- which  
6 describe the opinions of another expert, Dr. Jeffrey Chase -- do  
7 not appear to include any "trade secrets related to the  
8 functionality of Transperfect's products and technologies," as  
9 Transperfect contends. Id.

10 Exhibit A, in contrast, does contain information about  
11 Transperfect's proprietary technology. Accordingly, because  
12 Transperfect has provided good cause for sealing this content,  
13 this exhibit may be filed under seal.

14 II. MotionPoint's Motion to Seal

15 A. Meghan Bordonaro's Declaration

16 MotionPoint seeks to seal Exhibits 1, 2, 4, 5, and 18 of  
17 Meghan Bordonaro's declaration in support of its motions in  
18 limine.<sup>2</sup> It has not provided good cause to seal any of these  
19 exhibits.

20 Exhibits 1, 2, 4, and 5 contain excerpts of various  
21 deposition transcripts which, according to MotionPoint, describe  
22 "confidential and competitively sensitive information."  
23 Declaration of Meghan E. Bordonaro in Support of MotionPoint's  
24 Motion to Seal ¶ 6. A review of these transcripts, however,

25

---

26 <sup>2</sup> MotionPoint initially moved to seal Exhibits 12, 13, and 21 of  
27 Bordonaro's declaration because Transperfect designated these exhibits  
28 confidential. However, after MotionPoint submitted its sealing motion,  
Transperfect withdrew its confidential designation of these exhibits and  
stated that they may be filed in the public record.

1 reveals that they contain a significant amount of non-confidential  
2 information. The transcripts describe, for instance, one  
3 MotionPoint employee's prior work history, another MotionPoint  
4 employee's physical appearance, MotionPoint's allegations of  
5 infringement, and certain technologies claimed in MotionPoint's  
6 patents. None of this information is sealable. Although the  
7 transcripts may contain other information that is potentially  
8 sealable, MotionPoint has not explained in any detail why this  
9 information is sensitive or how it would be harmed if the  
10 information is disclosed.

11 MotionPoint has also failed to justify sealing Exhibit 18 of  
12 Bordonaro's declaration, which contains a two-hundred page excerpt  
13 of Dr. Paul Clark's expert report. The report describes various  
14 technologies disclosed in the patents-in-suit -- often quoting the  
15 patents at length -- and summarizes the parties' claim  
16 construction disputes. This information is public and, therefore,  
17 not sealable. MotionPoint has failed to identify any excerpts  
18 from the report that contain descriptions of proprietary  
19 technologies not previously disclosed in its patents.

20 Accordingly, MotionPoint's motion to seal Exhibits 1, 2, 4,  
21 5, and 18 of Bordonaro's declaration is denied.

22 B. Gregory Wyckoff's Declaration

23 MotionPoint seeks to seal Exhibits 10-16 of Gregory Wyckoff's  
24 declaration in support of its brief on disputed issued of law.  
25 Exhibit 10 contains a short excerpt of Enrique Travieso's  
26 deposition testimony in which Travieso describes how he and his  
27 colleagues collaborated to develop the technology disclosed in  
28 certain MotionPoint patents. The excerpt does not describe any

1 element of MotionPoint's proprietary technology -- indeed, it is  
2 not even clear from the excerpt what aspects of the technology  
3 Travieso is discussing -- and does not reveal any sensitive  
4 business information. Accordingly, this excerpt is not sealable.

5 Exhibits 11-16 of Wyckoff's declaration contain copies of e-  
6 mails exchanged internally by MotionPoint employees. MotionPoint  
7 has not offered any explanation as to why these e-mails are  
8 sensitive or how it would be harmed if these e-mails are  
9 ultimately disclosed. Most of these e-mails describe  
10 MotionPoint's translation system in general terms without  
11 providing any details about the technology itself. What's more,  
12 the e-mails appear to discuss elements of MotionPoint's  
13 translation system that MotionPoint itself planned to disclose in  
14 order to attract potential clients. Thus, MotionPoint's  
15 conclusory assertion that these e-mails contain sensitive  
16 information is insufficient to justify sealing these exhibits.

17 CONCLUSION

18 For the reasons set forth above, Transperfect's motion to  
19 seal (Docket No. 288) is GRANTED in part and DENIED in part.  
20 Within three days of this order, Transperfect shall file Exhibits  
21 B, C, D, J, and Q of Gross's declaration in the public record. In  
22 addition, it shall file a new version of its motions in limine in  
23 the public record after redacting the information on page 10. No  
24 other information may be redacted from its motions in limine.

25 MotionPoint's motion to seal (Docket No. 296) is DENIED.  
26 Within three days of this order, MotionPoint shall file publicly  
27 Exhibits 1, 2, 4, 5, and 18 of Bordonaro's declaration in support  
28 of its motions in limine. In addition, it must file publicly

1 Exhibits 10-16 of Wyckoff's declaration in support of its brief on  
2 disputed issues of law.

3 IT IS SO ORDERED.

4  
5 Dated: 6/3/2013

  
CLAUDIA WILKEN  
United States District Judge